

1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
3 T. KENNETH LEE
Assistant Federal Public Defender
4 Ohio Bar No. 0065158
411 E. Bonneville, Ste. 250
5 Las Vegas, Nevada 89101
6 (702) 388-6577
(702) 388-5819 (fax)
7 Ken_Lee@fd.org

8 Attorney for Petitioner Noel Lirio Gonzales

9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 NOEL LIRIO GONZALES,

13 Petitioner,

14 v.

15 ISIDRO BACA, et al.,

16 Respondents.

Case No. 2:16-cv-02015-RFB-CWH

**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE AN
AMENDED PETITION FOR WRIT OF
HABEAS CORPUS**

(First Request)

17
18 Petitioner, Noel Lirio Gonzales, by and through counsel, T. Kenneth Lee,
19 Assistant Federal Defender, moves this Court for an extension of time of seventy (70)
20 days from May 11, 2018, to and including July 20, 2018, to file a First Amended
21 Petition for Writ of Habeas Corpus. This motion is based upon the attached points
22 and authorities and all pleadings and papers on file herein.
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POINTS AND AUTHORITIES

1. On or about October 17, 2013, Noel Gonzales was sentenced as follows: Count 1 — conspiracy to commit robbery, 2 to 5 years; Count 2 — burglary with possession of a deadly weapon, 4 to 10, concurrent to Count 1; Count 3 — robbery with use of a deadly weapon, 5 to 15 years, plus an equal and consecutive term of 5 to 15 years, concurrent with Counts 1 and 2; Count 4 — 5 years to life, plus a consecutive term of 2 to 10 years, consecutive to Count 3.¹ On August 19, 2016, he filed a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody (Not Sentenced to Death). Clerk's Record (ECF no.) 1-1. Gonzales remains incarcerated at Southern Desert Correctional Center.

2. On September 29, 2017, this Court appointed the Office of the Federal Public Defender as counsel for Gonzales. ECF no. 4. Undersigned counsel, T. Kenneth Lee, filed a Notice of Representation on October 30, 2017. ECF no. 7.

3. This Court further granted leave for counsel to file an Amended Petition for Writ of Habeas Corpus. *See* ECF nos. 4, 9. The Amended Petition is currently due May 11, 2018. Petitioner now requests an additional seventy (70) days, up to and including July 20, 2018, to file the Amended Petition. This is the first request for an extension of time.

4. The additional period of time is necessary in order to effectively represent Mr. Gonzales. This motion is filed in the interests of justice and not for the purposes of unnecessary delay.

5. Counsel needs an extension of time due to following upcoming deadlines: a Reply due May 17, 2018, in *Myers v. Baker*, case no. 3:14-cv-0082-MMD-VPC; an Opening Brief due May 23, 2018, in *Bellon v. Neven*, Ninth Circuit no. 17-17005; an Opening Brief and Appendix due May 29, 2018, in *Jones v. McDaniel*, Nevada

¹ Gonzales is serving an aggregate sentence of 17 years to life.

1 Supreme Court no. 74459; a Reply due June 4, 2018, in *Hernandez-Ayala v. LeGrand*,
2 case no. 3:13-cv-134-MMD-WGC; an Opening Brief due June 4, 2018, in *Mosby v.*
3 *Baker*, Ninth Circuit no. 17-16565; a Reply due June 7, 2018, in *Mosby v. Baker*, case
4 no. 2:13-cv-01625-JAD-GWF; an Amended Petition due June 8, 2018, in *Melendez v.*
5 *Neven*, case no. 2:15-cv-02076-JAD-VCF; and a Reply due June 14, 2018 in *Chavez v.*
6 *LeGrand*, 3:14-cv-00373-RCJ-VPC. Additionally, counsel has a mandatory 2-day
7 training seminar, and has been in and out of the office due to a recent car accident.
8 Furthermore, counsel needs time to finish reviewing Gonzales' file and to meet with
9 him to discuss his federal habeas corpus action, and time to research and draft his
10 Amended Petition.

11 6. Senior Attorney General Amanda Sage was contacted via email and
12 stated that she did not object to the extension, but the lack of objection should not be
13 construed as a waiver of any procedural defenses, nor as a concession that any
14 amended petition will be considered timely filed, nor as a basis for equitable tolling.

15 7. For the above stated reasons, Petitioner respectfully requests this
16 Court grant the request for an extension of time of seventy (70) days and order the
17 Amended Petition to be filed on or before July 20, 2018.

18 Dated this 11th day of May, 2018.


19 Respectfully submitted,

20 APPROVED:

21 RENE L. VALLADARES
Federal Public Defender

22 DATED this 14th day of May, 2018.

23 /s/ T. Kenneth Lee
24 T. KENNETH LEE
Assistant Federal Public Defender

25 
26 RICHARD F. BOULWARE, II
United States District Judge

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Amanda Sage.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

Noel Lirio Gonzales
No. 1111057
Southern Desert Correctional Center
Indian Springs, NV 89070

/s/ Dayron Rodriguez
An Employee of the
Federal Public Defender